

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

APR 23 2006

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOEL LESSER

Appeal No. 2006-0926
Application 09/605,127

ON BRIEF

Before HAIRSTON, JERRY SMITH, and SAADAT, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-15, which constitute all the claims in this application.

The disclosed invention pertains to a method of verifying reciprocal linking of a first link between an account owner's

link page and a Webmaster's site and a second link from the Webmaster's site to the account owner's site using a database including first link information having a link address for a location at the Webmaster's site, the database being maintained by an administrator.

Representative claim 1 is reproduced as follows:

1. A method of verifying reciprocal linking of a first link between an account Owner's link page and a Webmaster's site and a second link from the Webmaster's site to the account Owner's site using a database including first link information having a link address for a location at the Webmaster's site, the database maintained by an administrator, the method comprising:

(a) retrieving first link information from the database; then

(b) determining whether the first link information corresponds to an existing resource at the Webmaster's site by accessing the Webmaster's site using the first link information retrieved from the database; then

(c) spidering through the Webmaster's site beginning at the link address; and

(d) verifying through the spidering step that a second link information is present at the Webmaster's site with said second link information corresponding to the second link from the Webmaster's site to the Owner's site.

The examiner relies on the following reference:

Horstmann	5,995,099	Nov. 30, 1999
-----------	-----------	---------------

Claims 1-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Horstmann.

Appeal No. 2006-0926
Application No. 09/605,127

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Horstmann does not fully meet the invention as set forth in claims 1-15. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert.

dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how the claimed invention is deemed to be fully met by the disclosure of Horstmann [final rejection, pages 4-9, incorporated into answer at page 3]. With respect to claims 1-4, which stand or fall together as a single group [brief, page 5], appellant argues that there is no spidering as recited in claim 1 in Horstmann. Appellant also argues that the examiner has ignored that the spidering of claim 1 occurs after determining whether the first link information corresponds to an existing resource at the Webmaster's site by accessing the Webmaster's site using the first link information retrieved from the database. Appellant argues that there is no teaching in Horstmann to use the first link information retrieved from a database to access the Webmaster's site [brief, pages 5-10]. The examiner responds by again citing the portions of Horstmann which are deemed to meet the claimed invention [answer, pages 4-5]. Appellant responds that the examiner has failed to address the specific arguments made in the main brief. Appellant argues that there is nothing in Horstmann which teaches or suggests retrieving first link information from a database. Specifically, appellant argues that Horstmann relates to the storage of new webpages on a server, not information in a

database as claimed. Appellant also asserts that "spidering" is widely known to mean "the ability to download pages linked together at a website." Appellant argues that Horstmann teaches against spidering because Horstmann removes the link if the link back does not exist [reply brief, pages 1-4].

We will not sustain the examiner's anticipation rejection of claims 1-4. We agree with appellant that Horstmann does not disclose the spidering step of claim 1, and therefore, the verifying step of claim 1 which is based on the spidering step. Horstmann discloses that the link address is checked to see if the reciprocal link is present at that address. If the reciprocal link is not present at that address, then Horstmann deletes the first link. We can find no disclosure in Horstmann of spidering through the Webmaster's site beginning at the link address. We agree with appellant that the term "spidering" means that all pages linked to the first page are also searched to find the reciprocal link. As noted above, we find that Horstmann only searches the first page, that is, the link page for the reciprocal link. We also agree with appellant that the examiner has failed to respond to the specific arguments made by appellant in the main brief. Simply citing portions of the applied reference without explaining how the cited portions meet the claimed invention and overcome appellant's

arguments, as done by the examiner, is not very helpful in understanding the examiner's position.

With respect to claims 5-10, which stand or fall together as a single group [brief, page 5], appellant argues that there is no teaching or suggestion in Horstmann that the account owner can accept the creation of links. Appellant argues that Horstmann actually teaches away from this feature because Horstmann teaches that the links page is modified without any intervention by the bookstore owner. Appellant also argues that there is no teaching in Horstmann for the creating step of claim 5 because there is no approval disclosed in Horstmann [brief, pages 10-14]. The examiner responds by again citing the portions of Horstmann which are deemed to meet the claimed invention [answer, pages 5-6]. Appellant responds that the examiner has failed to recognize that Horstmann teaches the addition of links by the Webmaster without approval by the account owner while the claimed invention requires approval prior to the creation of the link. Appellant argues that the examiner has confused the account owner and the Webmaster in the rejection [reply brief, pages 4-6].

We will not sustain the examiner's anticipation rejection of claims 5-10. We agree with appellant's argument that there is no approval required by the account owner in Horstmann before the first link is created by the administrator on the account owner's

link page. The portions of Horstmann cited by the examiner fail to clearly provide support for the examiner's position, and the examiner has failed to explain how these cited portions support his position.

With respect to claims 11-15, which stand or fall together as a single group [brief, page 5], appellant argues that there is no utilizing a formula as recited in claim 11 because a links page as disclosed by Horstmann is not a formula. Appellant also argues that there is no displaying of a second order of links independent of a human operator as claimed. Appellant argues that there is no teaching in Horstmann to display the first order of links in a non-editable view as claimed [brief, pages 14-22]. The examiner responds by again citing the portions of Horstmann which are deemed to meet the claimed invention [answer, pages 7-8]. Appellant responds that the examiner has failed to recognize that although Horstmann shows the display of links under headings, Horstmann does not teach the auto-rotation of the links because the claimed invention requires that it occur independent of human action and rely on a formula [reply brief, pages 6-7].

We will not sustain the examiner's anticipation rejection of claims 11-15. We agree with appellant's argument that there is no display of a second order in Horstmann independent of changes made by a human operator and using a formula. The portions of Horstmann

Appeal No. 2006-0926

Application No. 09/605,127

DOUGLAS T. JOHNSON

MILLER & MARTIN

1000 VOLUNTEER Bldg.

832 Georgia Ave.

Chattanooga, TN 37402-2289